

REMARKS

This responds to the Office Action mailed on June 26, 2007.

Claims 1, 8, 15, 20, and 25 are amended; as a result, claims 1-28 are now pending in this application.

Support for the amendments may be found in a variety of locations throughout the original filed specification. By way of Example only, the Examiner's attention is directed to paragraphs 12, 13, and 26 of the original filed specification.

§102 Rejection of the Claims

Claims 1, 5, 6, 14, 15, 18, 19 and 26-28 were rejected under 35 USC § 102(b) as being anticipated by Smith et al. (U.S. 6,311,324). It is of course fundamental that in order to sustain an anticipation rejection that each and every element of the rejected claims must be taught or suggested in the cited reference in exact detail and in identical arrangement.

The independent claims now make clear that the graphics application is executing on one more processors while it is being monitored. This is not taught or suggested in the Smith reference, where the source code or compiled code is analyzed for performance issues. As such the rejections with respect to Smith should be withdrawn and Applicant respectfully requests an indication of the same.

§103 Rejection of the Claims

Claims 2-4, 16, 17 and 25 were rejected under 35 USC § 103(a) as being unpatentable over Smith et al. in view of Fliflet (U.S. 2002/0140710). To sustain an obviousness rejection each and every element must be taught or suggested in the proposed combination of references.

Here, claims 2-4, and 16-17 are dependent from amended independent claims 1 and 15; thus for the amendments and remarks presented above with respect to claims 1 and 15, the rejections of claims 2-4 and 16-17 should be withdrawn and these claims allowed. Applicant respectfully requests an indication of the same.

With respect to amended independent claim 25, Fliflet dynamically load balances graphic modules. However, Fliflet does not dynamically monitor the execution of a graphics application

as it executes on a processor. Smith analyzes source and compiled code. Therefore, the combination fails to teach any dynamic monitoring of an executing graphics application as it executes on one or more processors. As such, the rejection should be withdrawn and the claims allowed. Applicant respectfully requests an indication of the same.

Claims 8-13 and 20-24 were also rejected under 35 USC § 103(a) as being unpatentable over Smith et al. and Fliflet and further in view of Greenberg et al. (U.S. 7,171,651). Again, to sustain an obviousness rejection each and every element must be taught or suggested in the proposed combination of references.

None of the proposed references teach alone or in combination the monitoring, detecting, and/or retrieving associated with an executing graphics application that executes on one or more processors. As such, the proposed combination fails to teach or to suggest each and every limitation of the amended claims 8 and 20. Accordingly, Applicant respectfully requests that the rejections of record be withdrawn and the claims allowed. Applicant respectfully requests an indication of the same.

RESERVATION OF RIGHTS

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all

rights to pursue any cancelled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney ((513) 942-0224) to facilitate prosecution of this application.

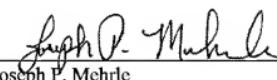
If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

CHUCK V. DESYLVA

By his Representatives,
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, Minnesota 55402
(513) 942-0224

By /


Joseph P. Mehrle
Reg. No. 45,535